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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,391	07/31/2001	Gregory P. Fitzpatrick	BOC9-2000-0084(219)	3428

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EXAMINER
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DANIEL JR, WILLIE J

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/919,391

Applicant(s)

FITZPATRICK ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rignell et al. (hereinafter Rignell) (US 5,818,920) in view of Labban (US 6,574,486 B1).

Regarding **Claim 1**, Rignell discloses a method for providing call which reads on the claimed "message" recipient local information (see abstract; col. 3, lines 28-50; Figs. 1-3) comprising the steps of:

identifying an attempt to send a mobile call which reads on the claimed "message" from an originating terminal (A) which reads on the claimed "source" to a receiving handheld terminal (C) which reads on the claimed "device" (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said mobile message (call) based upon said determined local information (see col. 5, lines 15-19; Figs. 1-4), where the calling subscriber can confirm or decide whether to complete the

connection or discontinue. Rignell fails to disclose the feature of a non-voice message.

However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

In the same field of endeavor, Labban discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

Regarding **Claim 2**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 1), in addition Rignell further discloses the method according to claim 1, wherein said local information comprises information selected from the group consisting of a time, date, day and location where said receiving handheld device (C) is located (see col. 5, lines 15-19), where the local information is the local time of the time zone that the receiving handheld device is located.

Regarding **Claim 3**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to send and receive text messages via a wireless telephone, as taught by Labban.

Regarding **Claim 4**, Rignell discloses a method for providing message recipient local information (see abstract; col. 7, lines 6-25; Figs. 2-3) comprising the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, line 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information (see col. 7, lines 15-25), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

Regarding **Claim 5**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 4), in addition Rignell further discloses the method according to claim 4, wherein said local information comprises information selected from the group consisting of a time, date, day and location where said receiving handheld device (B) is located (see col. 7, lines 15-18), where the local information is the local time of the time zone that the receiving handheld device is located.

Regarding **Claim 6**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to send and receive text messages via a wireless telephone, as taught by Labban.

Regarding **Claim 7**, Rignell discloses the method according to 4, wherein said processing step comprises, selecting an action from the group of actions consisting of connect which reads on the claimed “sending” said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call) (see col. 7, line 18-25; col. 8, lines 23-25; Fig. 3), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which the mail box would be obvious. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

Regarding **Claim 8**, Rignell discloses a system for providing location-based recipient information (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 6, line 60 - col. 7, line 25; Figs. 1-4) comprising:

a wireless service provider for providing wireless telephony services to a network of handheld devices (see col. 6, line 60 - col. 7, line 25; Fig. 3);

a time source for electronically reporting information local to each of said handheld devices (A or B) (see col. 6, line 60 - col. 7, line 5; col. 7, lines 11-15; col. 8, lines 45-47), where the base station, the base station controller, real-time clock, or PSTN is the time source that provides the time; and,

a notification system configured to provide local information acquired from said time source in response to an attempt to send a mobile message from an originating source to a handheld device in said network, said notification system being further configured to provide said local information prior to sending said mobile message (call), said notification system being yet further configured to delay sending said mobile message (call) until a decision to affirmatively send said mobile message (call) is made at said originating source (A) based on said provided local information (see col. 7, lines 6-25; Fig. 3), where the local information is provided prior to connecting (sending) the call in which the system waits until the subscriber confirms to connection (sending). Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 "ref. 426", 5 "ref. 624").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.



Regarding **Claim 9**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, line 6-25; Figs. 1-3) the steps of:

identifying an attempt to send a mobile message (call) from an originating source (A) to a receiving handheld device (C) (see col. 5, lines 5-21);

responsive to said identifying step, determining information local to said receiving handheld device (C) (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device; and,

providing said determined local information to said originating source (A), said originating source (A) deciding whether to send said mobile message (call) or terminate said mobile message based upon said determined local information (see col. 5, lines 15-19; Figs. 1-4), where the calling subscriber can confirm or decide whether to complete the connection or discontinue. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature

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of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

Regarding **Claim 10**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 9), in addition Rignell further discloses the machine readable storage according to claim 9, wherein said local information comprises information selected from the group consisting of a time, date, day and location where said receiving handheld device (C) is located (see col. 5, lines 15-19), where the local information is the local time of the time zone that the receiving handheld device is located..

Regarding **Claim 11**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to send and receive text messages via a wireless telephone, as taught by Labban.

Regarding **Claim 12**, Rignell discloses a machine readable storage having stored thereon, a computer program having a plurality of code sections, said code sections

executable by a machine for causing the machine to perform (see abstract; col. 3, lines 28-50; col. 5, lines 5-21; col. 7, line 6-25; Figs. 1-3) the steps of:

initiating a mobile message (call) between an originating source (A) and a receiving handheld device (B) (see col. 7, line 6-25; Fig. 3);

receiving local information from a service provider which services said receiving handheld device (B) (see col. 7, lines 15-18), where the local information is provided in which the service provider would be obvious; and

processing said mobile message (call) based on said received local information (see col. 7, lines 15-25), where the call would be processed by the calling subscriber according to the local information of the called subscriber. Rignell fails to disclose the feature of a non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

Regarding **Claim 13**, the combination of Rignell and Labban discloses everything claimed, as applied above (see claim 12), in addition Rignell further discloses the machine

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readable storage according to claim 12, wherein said local information comprises information selected from the group consisting of a time, date, day and location where said receiving handheld device (B) is located (see col. 7, lines 15-18), where the local information is the local time of the time zone that the receiving handheld device is located.

Regarding **Claim 14**, Rignell fails to disclose the feature wherein said mobile non-voice message is a text message. However, the examiner maintains that the feature wherein said mobile non-voice message is a text message was well known in the art, as taught by Labban.

Labban further discloses the feature wherein said mobile non-voice message is a text message (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature wherein said mobile non-voice message is a text message, in order to send and receive text messages via a wireless telephone, as taught by Labban.

Regarding **Claim 15**, Rignell discloses the machine readable storage according to 12, wherein said processing step comprises, selecting an action from the group of actions consisting of sending said mobile message (call) to said receiving handheld device (B), sending said mobile message (call) to a mail box, and not sending said mobile message (call) (see col. 7, line 18-25; col. 8, lines 23-25), where the calling subscriber can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which the mail box would be obvious. Rignell fails to disclose the feature of a

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non-voice message. However, the examiner maintains that the non-voice message feature was well known in the art, as taught by Labban.

Labban further discloses that there are multiple types of calls possible, including a non-voice message type (see col. 2, lines 19-26; col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 5 “ref. 624”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature of a non-voice message, in order to enable a user to send and receive text messages via a wireless telephone and thereby increase flexibility, as taught by Labban.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory

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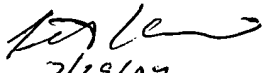
period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WJD,JR/wjd,jr  
27 July 2004

  
7/29/04  
**LESTER G. KINCAID**  
**PRIMARY EXAMINER**